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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,141	11/07/2001	Dean A. Hopkins JR.	09080-0027	7210
7590 11/20/2003 COUDERT BROTHERS LLP Third Floor 600 Beach Street San Francisco, CA 94109			EXAMINER CULBERT, ROBERTS P	
			ART UNIT 1763	PAPER NUMBER

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/010,141	Applicant(s) HOPKINS, DEAN A.	
	Examiner Roberts Culbert	Art Unit 1763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the publication to Madou in view of U.S. Patent 5,910,856 to Gosh et al.

Referring to Figure 4.60(c), Madau teaches a method of fabricating close spaced rectangular arrays (See pp. 199-202) on a silicon substrate where a mask is used for etching comprising the following steps:

providing a said substrate oriented with the $\langle 100 \rangle$ surface horizontal for placement of said mask over it and having an alignment feature on the perpendicular $\langle 110 \rangle$ crystal plane; (p.202, Lines 14-16)

providing a SiO_2 mask with perpendicular cross arms and a diamond centered on said cross arms, the centers of said diamonds lying on a line offset from said $\langle 110 \rangle$ plane by 45 degrees when said mask is placed in said etching position; (See figure 4.60 (c) and p. 202)

doing an etch to provide an array of membranes with each membrane being defined by an octagon with four sides being a vertical etch back on the $\langle 100 \rangle$ plane and the alternating other four sides being defined by a $\langle 111 \rangle$ axis seeking etch. (See Fig 4.60(d))

Madau further teaches that the cross arms define the $\langle 111 \rangle$ etch planes and the diamonds the lateral undercut $\langle 100 \rangle$ planes (pp. 199-202).

Madau also teaches that the etch uses potassium hydroxide (KOH) as an etchant (p. 202).

Madau does not teach that the etched close spaced rectangular arrays are used to form mirrors.

However, it is notoriously old in the art of micro-fabrication to use bulk micro machining techniques to form micro-mirror arrays. See for example Figure 3, and Col. 3, Lines 46-55 of Ghosh.

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It would have been obvious to one of ordinary skill in the art at the time of invention to use the bulk micro-machining technique of Madau in order to form mirror arrays with minimized spacing as Ghosh teaches that bulk micro-machining is suitable for forming mirror arrays, and Madau teaches that corner compensation provides optimized spatial requirements. (See p. 202)

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6,396,976 and U.S. Patent 6,128,122 teach fabrication of micro-mirror arrays using wet bulk-micro-machining.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberts Culbert whose telephone number is (703) 305-7965. The examiner can normally be reached on Monday-Friday (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on (703) 308-1633. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

R. Culbert

